

BEFORE THE
Federal Communications Commission

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In the Matter of

Review of the Commission's Rules regarding
the main studio and the local inspection
files of broadcast television and radio stations

MM Docket No. 97-138

To: The Commission

**REPLY COMMENTS OF DOUGLAS BROADCASTING, INC. AND
ACHIEVEMENT RADIO HOLDINGS, INC.**

Douglas Broadcasting, Inc. ("Douglas") and Achievement Radio Holdings, Inc. ("ARHI"), by their attorneys, submits these Reply Comments in response to the Comments filed regarding the Commission's Notice of Proposed Rule Making ("NPRM") in the above-captioned proceeding.¹ Douglas and ARHI, minority-controlled corporations which own the licenses of broadcast stations in several major markets across the country, strongly urge modification and relaxation of the Commission's rules regarding main studio location.

Currently, the FCC main studio rule generally requires each radio and television station to locate its main studio within the station's principal community contour.² The principal justification for the rule is to ensure that a broadcast station is accessible to residents of its community of license.³ A station's main studio may be located outside of its

¹FCC 97-182 (rel. May 28, 1997).

²47 C.F.R. § 73.1125.

³NPRM at ¶ 4-5.

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principal community contour "when good cause exists . . . and that to do so would be consistent with the operation of the station in the public interest."⁴ Approval for this exception, however, requires participation in the burdensome and lengthy exercise of obtaining a waiver of the rules.⁵

The policies supporting the main studio rule are overshadowed and negated by the unfair results created by its application. For example, the relative contours of different stations licensed to the same community vary dramatically and, thus, the rule disproportionately limits the main studio location choices of stations with smaller contours. Powerful stations with large contours enjoy the flexibility to locate their studios great distances from the community of license while less powerful stations are restricted only to locations which are closer in.

The current main studio requirements also create substantial burdens on multi-station licensees who could benefit from the efficiency and economic advantage of operation from a centrally located consolidated studio. Significantly, the Commission recently relaxed its radio ownership restrictions in order to "grant operators greater opportunity to combine administrative, sales, programming, promotion, production and other functions, as well as to share studio space and equipment."⁶ The Commission reasoned that "[n]ot only will such

⁴47 C.F.R. § 73.1125(a)(4).

⁵Indeed, Douglas and ARHI understand that in March, 1996, one AM licensee applied for a waiver to relocate its main studio outside of the station's principal community contour and today, more than one year later, the application is still pending! See Application for Minor Change, WQXA(AM), York, Pennsylvania, FCC File No. BML-960320AA.

⁶Revision of Radio Rules and Policies, 7 FCC Rcd 2755 at ¶ 11 (1992), recon., 7 FCC Rcd 6387, further recon., 9 FCC Rcd 7183 (1994).

efficiencies enable radio stations to improve their competitive standing; they may also play a significant part in improving the diversity of programming available to the public."⁷

Yet limitations of the main studio rule threaten licensees' ability to realize these advantages. Consolidation of more than one commonly-owned broadcast station can occur only if the contemplated studio exists within the principal community contours of all of the stations involved. However, the likelihood of such a phenomenon also is jeopardized by the inflexibility of the main studio rule. Consider, for example: (1) lower-powered stations, (2) instances where a station is the only station licensed to its respective community of license or (3) circumstances where commonly-owned stations are located in remote places within a market. The contour limitations inherent in each of these situations threatens, if not eliminates, a station's ability to consolidate studio locations while continuing to satisfy the contour restrictions of the current rule. Licensees, then, must absorb the additional expense and administrative nightmare of maintaining multiple studios merely to comply with the main studio requirements. This duplication of services and expenses clearly contradicts the Commission's professed encouragement and support of studio consolidation and undermines broadcasters' ability to give the best possible service to their listening community.

The advent of highways and modern transportation systems further weighs in favor of relaxing the location requirements of the main studio rule. Station facilities and studios can be accessed easily by car through nationwide, local and state highway systems. Various

⁷Id. Congress has further loosened the local radio ownership restrictions through the Telecommunications Act of 1996, implicitly confirming the Commission's conclusions that consolidated operations locally will serve the public interest.

methods of public transportation such as the subway, bus, train or commuter-rail provide additional means of accessing a station's studio. Further, with the advancements in communications and delivery technologies, no broadcast station is more than a telephone call, voice mail, e-mail, overnight express-mail or fax away from members of the viewing community. Geographic proximity is no longer a necessary feature of main studio location policies and its emphasis in the current rule, therefore, should be relaxed.

Through its NPRM, the FCC proposes to amend the main studio rule by replacing the community contour standard with an option(s) which will allow broadcasters more flexibility in the location of their main studio but preserve reasonable access to broadcast stations. The NPRM presents three specific options for the rule's amendment: (1) allowing a station to locate its main studio within an established number of miles from the center of its community of license; (2) allowing a broadcaster to locate its main studio within the principal contour of any station licensed to its community of license; or (3) a combination of these two approaches under which compliance could be achieved through satisfaction of either of the two options.⁸ Douglas and ARHI strongly encourage the adoption of the third option.

With regard to the first option, Douglas and ARHI join in support of comments proffered by ABC, Inc., Radio One Licenses, Inc., and others and recommend that the Commission adopt a definitive mileage standard that permits licensees to locate their station's main studio anywhere within a 50-mile radius of the center of the community of license. The objective nature of the mileage guideline would allow both licensees and the Commission

⁸NPRM at ¶¶ 14-15.

to determine compliance with main studio requirements easily and efficiently. Such a standard also would permit stations of varying levels of power or class to enjoy the same variety and flexibility in the location of their main studio as well as experience the economic advantages of consolidated station operation. Further, as noted in the NPRM, a 50-mile radius is only a slight increase from the largest principal community contour of a typical high power/class broadcast station.⁹ Thus, the moderate distance of this approach would preserve the fundamental basis for main studio policies, i.e., stations' accessibility to their communities of license.

For similar reasons, Douglas and ARHI support and urge adoption of a standard which would allow a broadcaster to locate its main studio within the principal contour of any station licensed to its community of license. As with the mileage option, the choice and number of main studio locations would be maximized for all stations and the disparate treatment of stations based on their power would be eliminated.

A combination of these two approaches, however, provides broadcasters with the best choice for optimal flexibility in main studio location without compromising station access. The contour option alone would be inappropriate for licensees in communities in which there is only one station licensed to the community. The contour option also would not be helpful in situations where city-grade contours of other stations in the market are difficult to determine, or where a station in the market modifies its facilities and its amended contours are not readily attainable. Similarly, the mileage option, with little else, would be

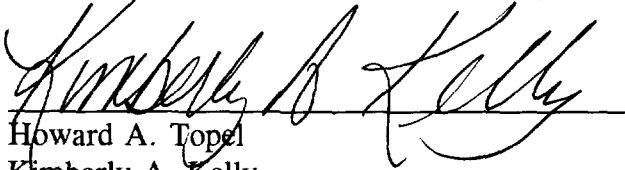
⁹Id at n.19

insufficient for those rare situations where, because of poor terrain, large expense or space unavailability, the 50-mile range is too restrictive. Together, these two options would ensure that a main studio is within either: (1) 50 miles of the community of license or (2) the contour of a similarly licensed station. In this way, studio-to-community distance would remain reasonable and, thereby, maintain access for a station's community.

For the aforementioned reasons, Douglas and ARHI strongly urge the Commission to modify the main studio location requirements of its rules and permit broadcast licensees to locate their main studio either within 50 miles of the center of the community of license or within the principal community contour of any other station licensed to that community. Should the Commission elect to modify the main studio rule by adopting a single standard, Douglas and ARHI believe that because of its simple construction and easy application, a straight 50-mile radius standard should be adopted.

Respectfully submitted,

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Dated: September 8, 1997/56628

CERTIFICATE OF SERVICE

I, Annette M. Lach, a secretary at the law firm of Fleischman and Walsh, L.L.P.
hereby certify that copies of the foregoing "Reply Comments" were served this 8th day of
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